



## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

Inventor(s): Gluckman et al.

Appln. No.: 09/910,461

Confirm. No.: 2772

Filed: July 20, 2001

Patent No: 6,780,848 B2

Issued: August 24, 2004

Title: USE OF GPE TO PROTECT GLIAL CELLS OR  
NON-DOPAMINERGIC CELLS FROM DEATH  
FROM NEURAL INJURY OR DISEASE

### PATENT APPLICATION

Art Unit:

Examiner:

**Customer No. 23910**

### **CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8**

I hereby certify that this correspondence is being deposited in the United States Postal Service with sufficient postage as first class mail in an envelope addressed to **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450**, on September 1, 2004.

  
(Attorney Signature)

D. Benjamin Borson, Ph.D., Reg. No. 42,349

Signature Date: September 1, 2004

## APPLICATION FOR PATENT TERM ADJUSTMENT

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This APPLICATION FOR PATENT TERM ADJUSTMENT is being filed under 37 C.F.R. 1.705(d) in response to an Issue Notification and a PAIR report accessed August, 2004.

This APPLICATION is being filed within two months of the Issue date of August 24, 2004. A petition fee under 1.18(e) accompanies this APPLICATION.

The correct patent term adjustment should be 128 days under 37 C.F.R. 1.705(b). The PAIR report indicated a total PTO delay of 154 days, and a total Applicant delay of 133 days. In particular, the PAIR report indicated an entry on May 10, 2004 for a "Miscellaneous Incoming Letter" and indicated 107 days of Applicants' failure to engage in reasonable efforts. Applicants note that the "Miscellaneous Incoming Letter" accompanied the Issue Fee, which was paid May 10, 2004. Two documents accompanied the Issue Fee

09/09/2004 EABUBAK2 00000025 09910461

01 FC:1455

200.00 0P

- 1 -

Attorney Docket No.: NRNZ 1002 US4 DBB  
dbb/NRNZ/1002 US4.012.Petition for PTA.wpd

200.001:080103  
09/01/04-10:04

Transmittal. One was a Notice Regarding Entity Status of Applicant, affirming that the Applicant was a Small Entity entitled to reduced fees, and the other document was a Comments to Reasons for Allowance.

Applicants refer to USPTO guidelines on interpretation of 37 C.F.R.1.704(c) dated May 29, 2001, which states:

Accordingly, the Office is publishing this notice to provide guidance in interpreting the provisions of 37 C.F.R. 1.704(c) (10) to clarify that submission of certain papers after a "Notice of Allowance," which do not cause substantial interference and delay in the patent issue process, are not considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application. The following are examples of such papers: **(1) Issue Fee Transmittal (PTOL-85B),... (5) Change of Status (small/not small entity status), (6) a Response to the examiner's reasons for allowance, and ...** Therefore, the submission of these papers after a Notice of Allowance will not be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and would not result in reduction of a patent term adjustment pursuant to 37 C.F.R.1.704(c)(10). Emphasis added.

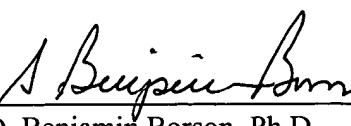
In particular, the "Miscellaneous Incoming Letter" was (1), (5), and (6) as above, all of which are specifically excluded and cannot be used to reduce the patent term extension. With the adjustment sought, the Applicants' delay will be 26 days, and the total PTA will be 128 days.

Accompanying this APPLICATION are the Fee for Application for Patent Term Extension, Appendix 1, a copy of the Issue Fee Transmittal form and Part B - Fee Transmittal, Appendix 2, a copy of a NOTICE REGARDING ENTITY STATUS OF APPLICANT, Appendix 3, a copy of COMMENTS IN REPLY TO REASONS FOR ALLOWANCE, and Appendix 4, a copy of the PAIR report.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 06-1325 for any matter in connection with this response, including any fee for extension of time, which may be required.

Respectfully submitted,

Date: September 1, 2004

By: 

D. Benjamin Borson, Ph.D.

Reg. No. 42,349

FLIESLER MEYER LLP  
Four Embarcadero Center, Fourth Floor  
San Francisco, California 94111-4156  
Telephone: (415) 362-3800

## **Appendix 1**

### **Copy of Issue Fee Transmittal form and Part B - Fee Transmittal**



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TRANSMITTAL  
FORM**

(to be used for all correspondence after initial filing)

TRANSMITTAL FORM  (to be used for all correspondence after initial filing)	Application Number	09/910,461	
	Filing Date	7/20/2001	
	First Named Inventor	Peter David Gluckman	
	Art Unit	1639	
	Examiner Name	Bennett M. Celsa	
Total Number of Pages in This Submission	4	Attorney Docket Number	NRNZ-01002US4

ENCLOSURES (Check all that apply)			
<input checked="" type="checkbox"/> Issue Fee Transmittal <input type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): 1. Statement Regarding Entity Status and 2. Comments In Reply to Reasons for Allowance	Remarks
<input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s)			
<input type="checkbox"/> Extension of Time Request			
<input type="checkbox"/> Express Abandonment Request			
<input type="checkbox"/> Information Disclosure Statement			
<input type="checkbox"/> Certified Copy of Priority Document(s)			
<input type="checkbox"/> Response to Missing Parts/Incomplete Application			
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53			

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm or Individual name	D. Benjamin Borson Fliesler Meyer LLP	Customer Number: 23910
Signature		Reg. No.: 42,349
Date	May 10, 2004	

**CERTIFICATE OF TRANSMISSION/MAILING**

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name	D. Benjamin Borson		
Signature		Date	May 10, 2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Attorney Docket No.: NRNZ-1002 US4 DBB

**PART B - FEE(S) TRANSMITTAL**

Complete and send this form, together with applicable fee(s), to: **Mail**

SEP 07 2004

**Mail Stop ISSUE FEE**  
**Commissioner for Patents**  
**P.O. Box 1450**  
**Alexandria, Virginia 22313-1450**  
**(703) 746-4000**

**or Fax**

**INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark up with any corrections or use Block 1)

23910 7590 04/07/2004

**FLIESLER MEYER, LLP**  
**FOUR EMBARCADERO CENTER**  
**SUITE 400**  
**SAN FRANCISCO, CA 94111**

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

**Certificate of Mailing or Transmission**

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO, on the date indicated below.

<b>D. Benjamin Borson</b>		(Depositor's name)
<i>D. Benjamin Borson</i>		(Signature)
<i>May 10, 2004</i>		(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/910,461	07/20/2001	Peter D. Gluckman	37522-1002C1	2772

**TITLE OF INVENTION: USE OF GPE TO PROTECT GLIAL CELLS OR NON-DOPAMINERGIC CELLS FROM DEATH FROM NEURAL INJURY OR DISEASE**

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1330	\$300	\$1630	07/07/2004
EXAMINER		ART UNIT	CLASS-SUBCLASS	<i>\$965 + \$15 for Copies</i>	
CELSA, BENNETT M		1639	514-018000		

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.  
 "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1. Fliesler Meyer LLP

2. \_\_\_\_\_

3. \_\_\_\_\_

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

NeuronZ, Ltd.

Auckland, New Zealand

Please check the appropriate assignee category or categories (will not be printed on the patent);  individual  corporation or other private group entity  government

4a. The following fee(s) are enclosed:

Issue Fee  
 Publication Fee  
 Advance Order - # of Copies 5

4b. Payment of Fee(s): \$980

A check in the amount of the fee(s) is enclosed.  
 Payment by credit card. Form PTO-2038 is attached.

The Director is hereby authorized to charge the required fee(s), or credit any overpayment, to Deposit Account Number 061325 (enclose an extra copy of this form).

Director for Patents is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

D. Benjamin Borson, Reg. No. 42,349

(Authorized Signature)

(Date)

*D. Benjamin Borson* May 10, 2004

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TRANSMIT THIS FORM WITH FEE(S)**

## **Appendix 2**

### **Copy of NOTICE REGARDING ENTITY STATUS OF APPLICANT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

Inventor(s): Peter D. Gluckman

Application No.: 09/910,461

Confirm. No.: 2772

Filed: July 20, 2001

Title: USE OF GPE TO PROTECT GLIAL CELLS  
OR NON-DOPAMINERGIC CELLS FROM  
DEATH FROM NEURAL INJURY OR  
DISEASE

PATENT APPLICATION

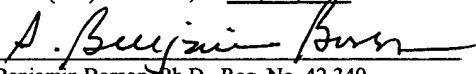
Art Unit: 1639

Examiner: Bennett M. Celsa

Customer No. 23910

CERTIFICATE OF FACSIMILE TRANSMISSION UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence is being transmitted by facsimile to the  
Commissioner for Patents, the United States Patent and Trademark Office, ISSUE FEE  
Division (703) 746-4000, on May 10, 2004.

  
D. Benjamin Borson, Ph.D., Reg. No. 42,349

Signature Date: May 10, 2004

NOTICE REGARDING ENTITY STATUS OF APPLICANT

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

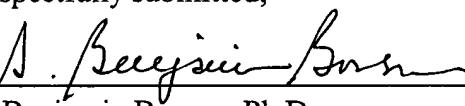
Sir:

Please note that applicant is a small entity and is therefore paying the issue fee for a small entity of \$665.00 authorized for payment through deposit account no. 06-1325.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 06-1325 for any matter in connection with this response, including any fee for extension of time, which may be required.

Respectfully submitted,

Date: May 10, 2004

By: 

D. Benjamin Borson, Ph.D.  
Reg. No. 42,349

FLIESLER MEYER LLP  
Four Embarcadero Center, Fourth Floor  
San Francisco, California 94111-4156  
Telephone: (415) 362-3800

### **Appendix 3**

#### **Copy of COMMENTS IN REPLY TO REASONS FOR ALLOWANCE**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

Inventor(s): Peter D. Gluckman

Application No.: 09/910,461

Confirm. No.: 2772

Filed: July 20, 2001

Title: USE OF GPE TO PROTECT GLIAL CELLS OR  
NON-DOPAMINERGIC CELLS FROM DEATH  
FROM NEURAL INJURY OR DISEASE

PATENT APPLICATION

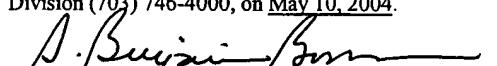
Art Unit: 1639

Examiner: Bennett M. Celsa

Customer No. 23910

CERTIFICATE OF FACSIMILE TRANSMISSION UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence is being transmitted by facsimile to the Commissioner for Patents, the United States Patent and Trademark Office, ISSUE FEE Division (703) 746-4000, on May 10, 2004.



D. Benjamin Borson, Ph.D., Reg. No. 42,349

Signature Date: May 10, 2004, 2004

COMMENTS IN REPLY TO REASONS FOR ALLOWANCE

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

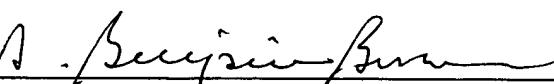
Sir:

This response is in reply to the Reasons of Allowance by the Examiner mailed with the Notice of Allowance dated April 7, 2004.

Applicants would like to clarify that the "Sarah" reference cited in the Reasons for Allowance is European Patent Application EP 0 366 638, listing Vicki Rubian Sara as Inventor. Further, none of the art of record anticipates any claim, either expressly or inherently, or renders any claim obvious, either alone or in combination.

Respectfully submitted,

Date: May 10, 2004

By: 

D. Benjamin Borson, Ph.D.  
Reg. No. 42,349

FLIESLER MEYER LLP  
Four Embarcadero Center, Fourth Floor  
San Francisco, California 94111-4156  
Telephone: (415) 362-3800

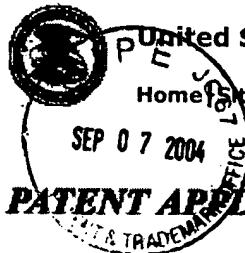
## **Appendix 4**

### **Copy of the PAIR report.**

**- 6 -**

Attorney Docket No.: NRNZ 1002 US4 DBB  
dbb/NRNZ/1002 US4.012.Petition for PTA.wpd

200.001:080103  
09/01/04-10:04



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SEP 07 2004

**PATENT APPLICATION INFORMATION RETRIEVAL**



**Patent Term Adjustment (PTA) for publication number: 09/910,461**

		Days
Filing or 371(c) Date:	07-20-2001	USPTO Delay (PTO): 154 ✓
Issue Date of Patent:	-	Three Years: -
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL): 133 24
Post-Issue Petitions (days):	+0	Total PTA: 21 128
USPTO Adjustment (days):	+0	Explanation of Calculations

**Search Options**

Assignments
Continuity Data
Foreign Priority
Image File Wrapper
File History
Published Documents

**Patent Term Adjustment History**

Date	Contents Description	PTO (days)	APPL (days)
08-04-2004	PTA 36 Months	↑	
08-24-2004	Patent Issue Date Used in PTA Calculation	↑	
07-22-2004	Dispatch to FDC	↑	
07-22-2004	Application Is Considered Ready for Issue	↑	
07-20-2001	Workflow - Drawings Finished	↑	
05-10-2004	Mailroom Date of Issue Fee Payment	↑	
05-10-2004	Applicant Has Filed a Verified Statement of Small Entity Status in Compliance with 37 CFR 1.27	↑	
05-10-2004	Miscellaneous Incoming Letter	↑	107
07-06-2004	Receipt into Pubs	↑	
06-15-2004	Workflow - Query Request - Finish	↑	
05-27-2004	Mail Acknowledgement of Priority Papers	↑	
05-27-2004	Acknowledgement of Priority Papers	↑	
05-25-2004	Workflow - Query Request - Begin	↑	
05-10-2004	Issue Fee Payment Recorded	↑	
04-27-2004	Workflow - File Sent to Contractor	↑	
04-07-2004	Mail Notice of Allowance	↑	
04-02-2004	Issue Revision Completed	↑	
04-02-2004	Notice of Allowance Data Verification Completed	↑	
04-02-2004	Notice of Allowability	↑	
04-02-2004	Date Forwarded to Examiner	↑	
12-16-2003	Amendment after Final Rejection	↑	
10-16-2003	Mail Final Rejection (PTOL - 326)	↑	
10-16-2003	Final Rejection	↑	
08-12-2003	Date Forwarded to Examiner	↑	

08-05-2003	Response after Non-Final Action	1	v 26
08-01-2003	Mail Notice of Informal or Non-Responsive Amendment	1	1
07-16-2003	Date Forwarded to Examiner	1	1
07-10-2003	Informal or Non-Responsive Amendment after Examiner Action	1	1
07-10-2003	Response after Non-Final Action	1	
04-16-2003	Mail Non-Final Rejection	1	
04-16-2003	Non-Final Rejection	1	
03-19-2003	Date Forwarded to Examiner	1	
03-13-2003	Response to Election / Restriction Filed	1	
02-21-2003	Mail Restriction Requirement	1	154
02-20-2003	Requirement for Restriction / Election	1	
09-16-2002	Preliminary Amendment	1	
10-04-2002	Case Docketed to Examiner in GAU	1	
09-10-2002	Information Disclosure Statement (IDS) Filed	1	
09-20-2001	An assertion that the nature of the legal entities having property rights to the patent authorizes t	1	
11-01-2001	Case Docketed to Examiner in GAU	1	
09-20-2001	Information Disclosure Statement (IDS) Filed	1	
09-06-2001	Information Disclosure Statement (IDS) Filed	1	
09-06-2001	Preliminary Amendment	1	
10-29-2001	Application Dispatched from OIPE	1	
10-25-2001	Application Is Now Complete	1	
08-15-2001	Notice Mailed--Application Incomplete--Filing Date Assigned	1	
08-15-2001	Correspondence Address Change	1	
08-01-2001	IFW Scan & PACR Auto Security Review	1	
07-20-2001	Initial Exam Team nn	1	